

## Message Text

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ACTION IO-13

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 USIA-06 ACDA-07 OMB-01 EB-08

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R 020020Z MAR 77

FM USMISSION USUN NY

TO SECSTATE WASHDC 2578

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E.O. 11652: N/A

TAGS: PFOR, US, UN, CON

SUBJ: UN CHARTER REVIEW

REF: USUN 0561

1. UN CHARTER REVIEW WORKING GROUP MET IN CLOSED SESSION PM FEB 28 AND DISCUSSED PARAS 82-92 OF SECRETARIAT STUDY ON PEACEFUL SETTLEMENT OF DISPUTES AND INTERNATIONAL COURT OF JUSTICE. BELGIUM LED OFF BY SAYING THAT MANY MEASURES WHICH EXIST IN CHARTER FOR PEACEFUL SETTLEMENT ARE NOT UTILIZED AND CALLED FOR STUDY OF REASONS FOR NON-USE. INDIA SPOKE IN FAVOR OF COMPULSORY THIRD PARTY ARBITRATION, IF ACCEPTED BY ALL PARTIES TO DISPUTE.

2. ITALY SAID SC IS COMPETENT TO HANDLE DISPUTES BUT THAT MACHINERY CAN BE IMPROVED WITHOUT MODIFYING CHARTER. EGYPT SAID IF ONE PARTY DOESN'T ACCEPT OTHER MEASURES, SC SHOULD HAVE POWER TO ENFORCE SETTLEMENT. EGYPTIAN DELEGATE SAID ALL STATES SHOULD ACCEPT AND CARRY OUT GA AND SC DECISIONS. PHILIPPINES STATED TWO PARTIES MUST FIRST NEGOTIATE; AFTER TRADITIONAL MEANS, SUCH AS

INQUIRY AND MEDIATION, ARE EXHAUSTED, THERE SHOULD BE  
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PERMANENT MACHINERY FOR THIRD PARTY SETTLEMENT. GREECE CALLED FOR GREATER ICJ ACTIVITY.

3. POLAND SAID IDEA OF COMMISSION OF CONCILIATION AND ARBITRATION IS SLUR ON THE SC, AND ASKED WHO WOULD DECIDE IF THE COMMISSION WAS CONCILIATING OR ARBITRATING AT ANY PARTICULAR TIME. MOREOVER, HE SAID, THIS IDEA HAD BEEN TRIED IN

1949 AND THE PANEL SET UP THEN HAD NEVER BEEN USED. INDIA, USSR SUPPORTED POLAND. ROMANIA DISAGREED, SAYING THERE IS NO EXISTING MECHANISM TO EXERCISE PREVENTIVE ACTION, AND CALLED FOR ESTABLISHMENT OF PERMANENT GA COMMISSION MADE UP OF MEMBER STATE REPS. US AGREED WITH ROMANIA ON NEED FOR PREVENTIVE MEASURES BEFORE DISPUTES REACH CRITICAL STAGE, BUT DOUBTED THAT ERECTING NEW INSTITUTIONS WOULD ALONE AMELORATE NEED SINCE THERE ARE MANY STATES THAT SIMPLY ARE NOT WILLING TO GIVE UP THEIR FREEDOM OF ACTION BY SUBMITTING DISPUTES TO THIRD PARTY ARBITRATION. IN ANY EVENT REASONS FOR LACK OF USE OF EXISTING INSTITUTIONS NEED CLARIFICATION BEFORE UN EMBARKS ON CREATING NEW ONES.

4. GDR STATED COMMISSION PROPOSALS SHIFT COMPETENCY FROM SC TO GA AND THIS WOULD NOT BENEFIT EFFICIENCY OF UN. POLAND SAID COMMISSION WAS MERELY ANOTHER GA AND ASKED WHAT WAS THE NEED? ROMANIA SAID IT WAS TOO COMPLEX AND TIME-CONSUMING TO CALL SPECIAL SESSION OF GA IN CRISIS. USSR EXPRESSED SKEPTICISM THAT ANOTHER STANDING BODY WOULD HELP WHEN ICJ AND THE HAGUE ARE BARELY USED. TURKEY SAID WORLD TODAY IS UNDERGOING TRANSFORMATION WHICH INEVITABLY LEADS TO DISPUTES, BUT THAT STATES ARE HESITANT TO BRING DISPUTES TO BODIES WHICH HAVE NOT ALREADY EARNED THEIR RESPECT.

5. UK NOTED LACK OF USE OF ICJ AND SAID THAT SINCE STATES ACCEPT SOME LIMITATION OF THEIR SOVEREIGNTY BY JOINING UN, COMMITTEE SHOULD EXAMINE REASONS WHY DISPUTES AREN'T TAKEN LIMITED OFFICIAL USE

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TO ICJ. COLOMBIA, PHILIPPINES, GREECE AND US AGREED. TUNISIA SAID ICJ SHOULD BE ABLE TO DETERMINE JURIDICAL STATUS OF NEW STATES; UK DISAGREED, ASKING WHY ENLARGE ICJ POWERS WHEN IT IS ALREADY HAVING SO MUCH TROUBLE? NIGERIA SAID ICJ IS LIKE A DOG THAT CAN ONLY BARK AND NOT BITE, AND CONTINUED THAT IT'S UNFORTUNATE THAT STATES CAN DECIDE WHETHER OR NOT TO ACCEPT ICJ JURISDICTION AND DECISIONS. NIGERIAN DELEGATE CRITICIZED SOUTH AFRICA FOR ITS REFUSAL TO WITHDRAW FROM NAMIBIA FOLLOWING ICJ DECISION THAT IT SHOULD DO SO.

6. FRANCE, SUPPORTED BY POLAND, SAID THAT SETTING UP SEPARATE ICJ CHAMBER FOR LAW OF THE SEA, AIR LAW, AND FINANCIAL LAW, AND ESTABLISHING REGIONAL COURTS, WOULD ONLY FRAGMENT ICJ AND NOT HELP ITS EFFICIENCY. FRENCH DELEGATE SAID ICJ CAN SET UP ITS OWN SIMPLIFIED PROCEDURES WITHOUT HAVING THEM IMPOSED BY THE GA. COLOMBIA DISAGREED, SAYING IT WAS GOOD IDEA TO SET UP SPECIALIZED CHAMBERS IN SPECIALIZED AREAS. ITALY ARGUED AGAINST ENCOURAGEMENT OF SPECIALIZED CHAMBERS, BUT SUPPORTED IDEA OF

REGIONAL COURTS.

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## Message Attributes

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**Channel Indicators:** n/a  
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**Disposition Date:** 22 May 2009  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009